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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 2349 OF 2007

M/s. Sun Petrochemicals Pvt. Ltd. ... Petitioner

V/s

Vithu Pandurang Mali & ors. ... Respondents

Mr. K.S. Bapat i/by M/s. Desai & Desai Associates for the petitioner.

Mr. R.D. Oak for the respondent No.1.

CORAM: SMT. NISHITA MHATRE, J.

DATED: 23RD JULY, 2007.

P.C.:

1. Rule. Rule made returnable forthwith.

2. The petitioner challenges the order of the Labour Court dated 4.1.2006 and of the Industrial Court dated 18.12.2006 in Revision Application (ULP) No. 38 of 2006.

3. The respondent workman was issued two chargesheets, one on 4.6.2002 and another on 10.8.2002. A common enquiry was held in respect of both the chargesheets. The Labour Court came to the conclusion that the enquiry

held against the respondent was fair and proper but was of the view that the findings of the Enquiry Officer are perverse. The Industrial Court concurred with the view taken by the Labour Court. A perusal of the order of the Labour Court indicates that the Labour Court has not considered both the chargesheets and the findings of the Enquiry Officerk in respect of both the chargesheets.

4. By consent, the orders of both the Courts below are set aside. The Complaint (ULP) No. 173 of 2003 is remanded to the Labour Court. The Labour Court has already held that the enquiry held against the respondent workman was conducted in a fair and proper manner, in consonance with the principles of natural justice. This finding of the Labour Court is not disturbed. On remand, the Labour Court shall only consider whether the findings of the Enquiry Officer are perverse in respect of both the chargesheets dated 4.6.2002 and 10.8.2002 and what relief, if any, should be granted to the respondent workman.

5. Rule made absolute accordingly.

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